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United States Patent & Trademark Office

Appl. No. : 10/800,608
Applicant : Stephen Truesdale Carney
Filed : March 15, 2004
TC/A.U. : 1655
Examiner : Patricia A. Leith

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Response to Final Rejection Letter

Sir,

In response to the Office action of May 18, 2007, please see our response as follows:

Prologue. You reject our claim based on two instances of prior art in which you state that alfalfa sprout powder is shown to lower cholesterol. The first involves the prior publication our work for hire study completed by Dr. Lawrence Rink entitle Folic Acid and Alfalfa, the FALL Study (the "Study"). The second involves an article written by Ms. Muldoon describing an athlete's diet and the use of powdered alfalfa.

The Study Argument: You claim that the publication of the Study is prior art.

Argument Refuted: As we have shown you through affidavits of Dr. Rink and Mr. Stephen T. Carney, our Study was completed by Dr. Rink as a work for hire for Mr. Carney. Dr. Rink never published the Study but presented the Study to Mr. Carney and only Mr. Carney. See the Second Affidavit of Lawrence D. Rink, M.D., FACC attached hereto and incorporated herewith. In addition, Mr. Carney did cause said Study to be published on our company website NCB3.com, but said publication date, June 7, 2003, was within one year of filing this Patent application. See Affidavit of Stephen T. Carney attached and incorporated herewith. A second publication was made on August 17, 2003 after Mr. Carney gave a seminar to the International Sprout Growers Association by an